# Financial Identity Fraud and Identity Theft Protection Act



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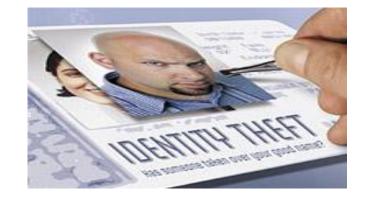
This presentation is not meant to serve as a substitute for reading the various laws discussed, seeking legal counsel or otherwise requesting Department guidance and/or interpretations on the laws it administers and enforces. The presentation merely serves as an introduction subject.

#### Roadmap



ID Theft Background

FIFITPA



Federal Requirements

ID Theft Tips: What Victims Should Do

### Department Overview

- Consumer Services & Education
- Public Information
- Consumer Advocate
- Administration
- Legal Division



**UP NEXT: ID Theft Background** 

#### What is Identity Theft?

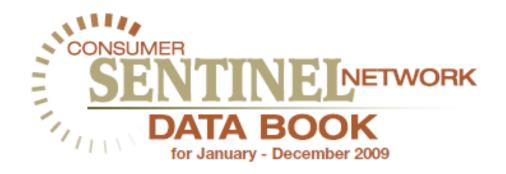
- Unlawful use of your personal information
- Every 15 minutes, 200 people become victims of Identity Theft
  - **OFTC= \$50 billion losses annually**
  - **OSC Stats: Consumer Sentinel** 
    - 2008-29<sup>th</sup>; 2007-30<sup>th</sup>
    - ■2006-32<sup>nd</sup>; 2005-36<sup>th</sup>



#### How Does ID Theft Happen?

- You
- Friends and Family
- Lost or Stolen Wallets or Receipts
- Pre-approval Offers
- Dishonest Employees
  - Skimming
  - Banks/ drs. office
- Hoaxes
  - Pretending to be Bank of America, etc & need personal info
- Internet
  - Phishing for pers'l information





# Federal Trade Commission February 2010

#### **Consumer Sentinel Network State Complaint Rates**

January 1 - December 31, 2009

#### Fraud & Other Complaints

#### **Identity Theft Complaints**

	Complaints				Con
k Consumer State	Per 100,000 Population	Complaints	Ran	k Victim State	Per 100 Popula
Nevada	412.9	10,912	1	Florida	122.3
Colorado	412.4	20,722	2	Arizona	119.4
New Hampshire	397.2	5,261	3	Texas	116.4
Maryland	393.6	22,431	4	California	114.2
Oregon	391.7	14,987	5	Nevada	106.0
Alaska	377.7	2,638	6	New Mexico	98.0
Washington	376.1	25,062	7	Georgia	97.2
Delaware	369.3	3,269	8	New York	96.7
Virginia	366.8	28,911	9	Colorado	95.0
Florida	361.9	67,083	10	Illinois	93.8
Arizona	352.7	23,266	11	Maryland	91.8
Hawaii	352.0	4,559	12	New Jersey	84.5
Missouri	347.1	20,780	13	Delaware	81.9
California	332.3	122,824	14	Pennsylvania	78.4
Georgia	321.6	31,611	15	Washington	77.2
Montana	316.4	3,085	16	Connecticut	76.2
Idaho	307.1	4,747	17	Alabama	76.2
New Jersey	306.4	26,682	18	Michigan	75.5
Pennsylvania	300.5	37,872	19	Mississippi	73.2
Alabama	296.1	13,942	20	Virginia	72.8
Tennessee	295.3	18,594	21	North Carolina	72.5
Wyoming	295.3	1,607	22	Louisiana	72.4
Utah	293.3	8,168	23	Oklahoma	71.4
Massachusetts	291.0	19,187	24	Tennessee	69.4
Ohio	289.5	33,411	25	Massachusetts	69.0
Vermont	287.4	1,787	26	Kansas	67.6
Indiana	287.3	18,452	27	Oregon	67.5
North Carolina	287.2	26,941	28	South Carolina	67.3
Connecticut	284.6	10,012	29	Ohio	65.2
Texas	280.6	69,546	30	Indiana	64.8
Illinois	279.9	36,133	31	Arkansas	64.4

#### **Identity Theft Complaints Count from South Carolina Victims = 3,070**

#### Identity Theft Types Reported by South Carolina Victims

Rank	Identity Theft Type	Complaints	Percentage <sup>1</sup>
1	Government Documents or Benefits Fraud	505	16%
2	Phone or Utilities Fraud	480	16%
3	Credit Card Fraud	469	15%
4	Bank Fraud <sup>2</sup>	364	12%
5	Employment-Related Fraud	260	8%
6	Loan Fraud	138	4%
	Other	766	25%
	Attempted Identity Theft	144	5%

<sup>&</sup>lt;sup>1</sup>Percentages are based on the 3,070 victims reporting from South Carolina. Note that CSN identity theft complaints may be coded under multiple theft types.

<sup>&</sup>lt;sup>2</sup>Includes fraud involving checking and savings accounts and electronic fund transfers.



# Identity Theft Consumer Complaint Data South Carolina

January 1 - December 31, 2007



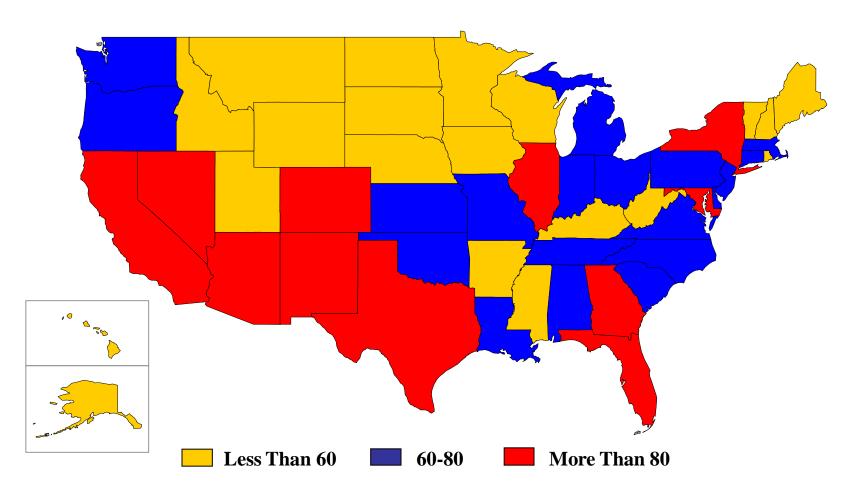
Federal Trade Commission
Washington, DC



#### 747

## Figure 4b Identity Theft Complaints by State (Per 100,000 Population)<sup>1</sup>

*January 1 – December 31, 2007* 



<sup>1</sup>These data are not based on a survey; the complaint figures presented are derived from self-reported and unverified consumer complaints contained in the FTC's database. Per 100,000 unit of population estimates are based on the 2007 U.S. Census population estimates (Table NST-EST2007-01 - Annual Estimates of the Population for the United States and States, and for Puerto Rico: April 1, 2000 to July 1, 2007). Numbers for the District of Columbia are 784 complaints and 133.2 complaints per 100,000 population.

#### Figure 4a



#### Identity Theft Complaints by State (Per 100,000 Population)<sup>1</sup>

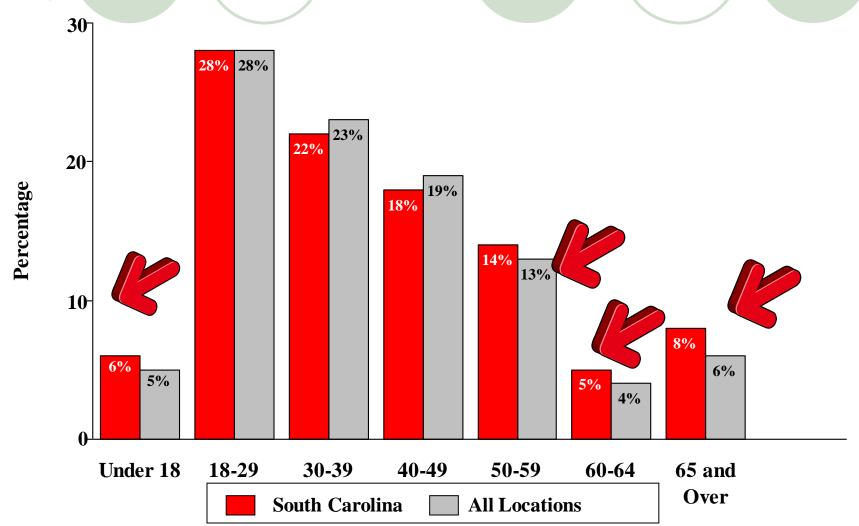
*January 1 – December 31, 2007* 

		Complaints				Complaints	
		Per 100,000	Number of			Per 100,000	Number of
Rank	<b>Consumer State</b>	Population	Complaints	Rank	<b>Consumer State</b>	Population	Complaints
1	Arizona	137.1	8,688	26	Indiana	63.4	4,026
2	California	120.1	43,892	27	Ohio	62.6	7,178
3	Nevada	114.2	2,930	28	Louisiana	62.3	2,674
4	Texas	107.9	25,796	29	Kansas	61.0	1,694
5	Florida	105.6	19,270	30	South Carolina	60.6	2,670
6	New York	100.1	19,319	31	Utah	57.8	1,529
7	Georgia	91.6	8,744	32	Mississippi	57.3	1,673
8	Colorado	89.0	4,328	33	Arkansas	56.5	1,601
9	New Mexico	87.5	1,723	34	Rhode Island	56.0	592
10	Maryland	85.8	4,821	35	Minnesota	55.0	2,857
11	Illinois	80.2	10,304	36	Idaho	49.2	737
12	New Jersey	79.0	6,864	37	New Hampshire	48.9	643
13	Washington	76.4	4,942	38	Alaska	47.0	321
14	Pennsylvania	72.5	9,016	39	Hawaii	45.9	589
15	Michigan	70.3	7,079	40	Nebraska	44.7	793
16	Delaware	69.7	603	41	Wisconsin	43.7	2,450
17	Alabama	69.6	3,221	42	Kentucky	43.3	1,836
18	Virginia	69.0	5,319	43	Wyoming	42.5	222
19	Connecticut	68.8	2,409	44	Montana	40.8	391
20	Oregon	68.1	2,552	45	Maine	40.2	530
21	Missouri	67.4	3,962	46	West Virginia	40.2	729
22	North Carolina	67.0	6,069	47	Vermont	38.1	237
23	Massachusetts	66.5	4,292	48	Iowa	35.6	1,063
24	Tennessee	64.7	3,986	49	South Dakota	30.8	245
25	Oklahoma	63.9	2,312	50	North Dakota	28.5	182

<sup>1</sup>These data are not based on a survey; the complaint figures presented are derived from self-reported and unverified consumer complaints contained in the FTC's database. Per 100,000 unit of population estimates are based on the 2007 U.S. Census population estimates (Table NST-EST2007-01 - Annual Estimates of the Population for the United States and States, and for Puerto Rico: April 1, 2000 to July 1, 2007). Numbers for the District of Columbia are 784 complaints and 133.2 complaints per 100,000 population.

Figure 3
Complaints by Consumer Age<sup>1</sup>

*January 1 – December 31, 2007* 

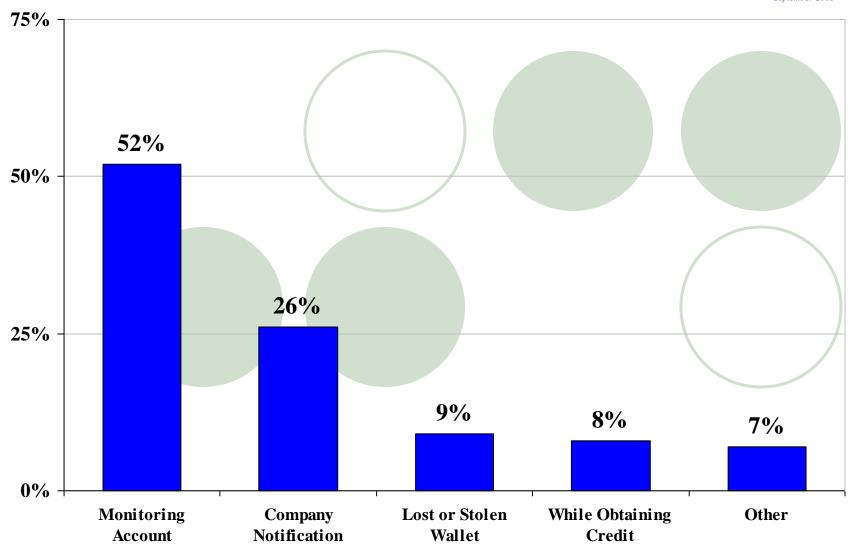


<sup>&</sup>lt;sup>1</sup>These data are not based on a survey; the complaint figures presented are derived from self-reported and unverified consumer complaints contained in the FTC's database. Percentages are based on the number of identity theft complaints where consumers reported their age: 2,500 from South Carolina consumers and 231,576 from consumers in all locations. 96% of consumers from South Carolina and 95% of consumers from all locations who contacted the Federal Trade Commission directly reported their age.

Data Clearinghouse

#### **How Victims Discovered ID Theft**<sup>1</sup>

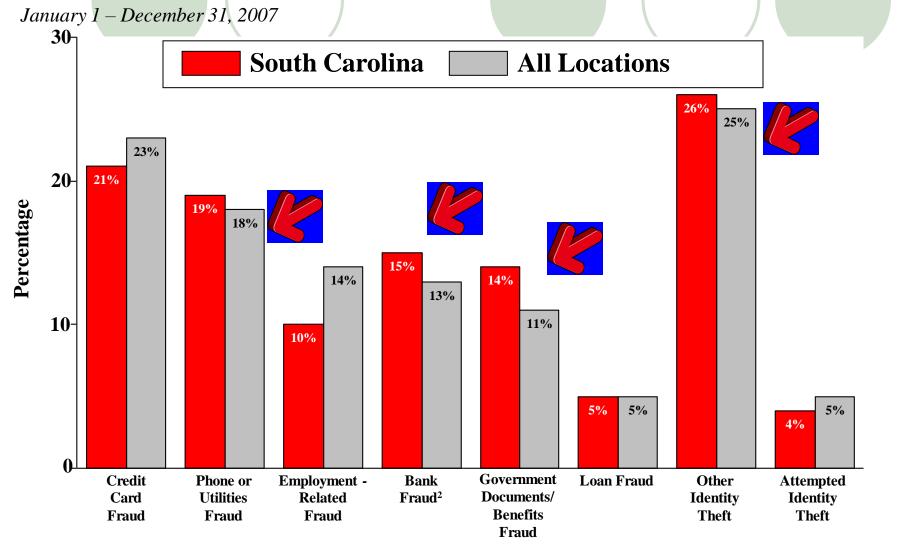




<sup>&</sup>lt;sup>1</sup>Source: Identity Theft Survey Report conducted by Synovate for the FTC (March-April 2003). Percentages based on respondents who indicated they had been the victim of identity theft within the past five years.







<sup>&</sup>lt;sup>2</sup>Includes fraud involving checking and savings accounts and electronic fund transfers.

#### Id Theft~ STATE V. COLUMBIA

Type of IDT	STATE	MSA
Credit Card Fraud	21%	23.3%
Phone/Utilities Fraud	19%	19.5%
Bank Fraud	<b>15%</b>	16%
Gov't Docs/Benefits Fraud	14%	14%
<b>Employment Related Fraud</b>	<b>10%</b>	10.5%
Loan Fraud	5%	4.7%

#### Identity Theft- STATE V. CHARLESTON

Type of IDT	<b>STATE</b>	MSA
Credit Card Fraud	21%	22.4%
<b>Phone/Utilities Fraud</b>	19%	19.0%
Bank Fraud	15%	14.1%
Gov't Docs/Benefits Fraud	14%	14.3%
<b>Employment Related Fraud</b>	10%	7.9%
Loan Fraud	<b>5%</b>	7.5%

#### Identity Theft - STATE V. GREENVILLE

Type of IDT	STATE	MSA
Credit Card Fraud	21%	19.3%
Phone/Utilities Fraud	19%	19.5%
Bank Fraud	<b>15%</b>	17.1%
Gov't Docs/Benefits Fraud	14%	12.1%
<b>Employment Related Fraud</b>	10%	11.2%
Loan Fraud	5%	4%

#### Identity Theft - STATE V. MYRTLE BEACH

Type of IDT	<b>STATE</b>	MSA
<b>Credit Card Fraud</b>	21%	26.2%
<b>Phone/Utilities Fraud</b>	19%	16.9%
Bank Fraud	<b>15%</b>	12.8%
Gov't Docs/Benefits Fraud	14%	14.4%
<b>Employment Related Fraud</b>	10%	<b>6.7%</b>
Loan Fraud	5%	3.6%

#### Identity Theft-STATE V. SPARTANBURG

Type of IDT	STATE	MSA
Credit Card Fraud	21%	19.2%
Phone/Utilities Fraud	19%	13.3%
Bank Fraud	15%	17.1%
Gov't Docs/Benefits Fraud	14%	14.6%
<b>Employment Related Fraud</b>	10%	9.2%
Loan Fraud	5%	3.7%

UP NEXT: FIFITPA

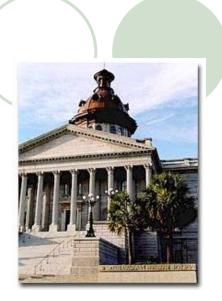
# Financial Identity Fraud and Identity Theft Protection Act

- Legislative Background
- Consumer Id Theft Protection
- Social Security Numbers
- Records Disposal
- Security Breach
- Other Protections



#### Legislative Background

Bills



Comprehensive Result= S. 453, Act 190

- Current Status
  - Effective dates ~ December 31, 2008 & July 1, 2009

## Consumer ID Theft Protection Sections 37-20-110 et seq.

- Important Definitions
  - Consumer
    - Individual:
      - Residing in SC
      - Making a transaction for personal, family of household purpose



- Important Definitions cont...
  - Consumer Credit Reporting Agency (CRA)
    - Person
      - who for \$\$ or dues
      - Regularly assembles OR Evaluates
      - consumer info
      - for the purpose of giving consumer reports to 3rd parties







- Important Definitions cont...
  - Consumer Report
    - Any communication of information by a CRA
    - Concerning a consumer's:
      - Creditworthiness,
      - Credit standing
      - Etc.
    - Is used or collected to establish eligibility for:
      - Credit or
      - Insurance or
      - Employment, etc



- Security Freeze~
- In General
  - Freeze- credit report cannot be accessed without consumer's permission
  - Available to ANYONE
  - Submit request to CRA
    - Certified letter or e-mail
  - CRA must place within 5 days



Security Freeze cont...



#### • Within 10 Days CRA Must:

- Send consumer written confirmation of request and
- Provide a pin or password.
  - Pin or password is needed to thaw or lift the freeze and may be requested by the reporting agency when you want to get your credit report

#### • While Freeze in Place CRA Must:

- Notify consumer of personal info changes within 30 days
  - le: address, name, social security #
- Notify person requesting a report = frozen



- Security Freeze cont...
  - To Thaw (temporarily remove freeze)
    - Request via e-mail, fax, telephone, etc.
    - Can be for a specified time or creditor/ requestor
    - CRA must thaw within 15 minutes

#### **OTo Lift**

- Request via e-mail, telephone, etc
- CRA must remove within 3 days



- Security Freeze cont...
  - Olt is **FREE** to:
    - Place,
    - Temporarily Lift OR
    - Remove

A Security Freeze!!!



- Points to Remember:
  - You must contact each of the 3 credit reporting agencies to request the freeze

#### **Equifax**

www.freeze.equifax.com 800-685-1111 or TDD 800-255-0056 P.O. Box 105788, Atlanta, GA 30348

#### **Experian**

www.experian.com/freeze 888-EXPERIAN (397-3742) or TDD 800-972-0322 P.O. Box 9554, Allen, TX 75013

#### **TransUnion**

https://annualcreditreport.transunion.com/fa/securityFreeze/landing 888-909-8872 or TDD 877-553-7803 P.O. Box 6790, Fullerton, CA 92834

- Points to Remember cont..:
  - **Getting New Credit** 
    - The freeze only affects the opening of new accounts, loans, etc.
    - Before you apply for a new loan, credit, etc. you must thaw the freeze (either for the lender or for a specific time)



- Right to Dispute- FIFITPA Mirrors FCRA Dispute Provisions
  - Fair Credit Reporting Act
    - Consumer Can Dispute:
      - Inaccurate, incomplete or untimely items
      - To credit reporting agency "CRA" and/or
      - Furnisher (Creditor)

#### • Requirements:

- CRA Notify furnisher within 5 days
- CRA & Furnisher Investigate (unless frivolous)
- CRA & Furnisher Note File= in dispute
- If no resolution in 30 days, CRA must remove info

#### Resolution

- Notify consumer within 5 days
- 100 word dispute



- Reporting Periods FCRA
  - Bankruptcy
    - 10 years
  - Civil Lawsuit or Judgment
    - 7 years or statute of limitations (longer)
  - Paid Tax Lien
    - 7 years
  - Accounts Placed in Collection OR Charged Off
    - 7 years (clock begins 180 days after delinquency)
  - Other Adverse Info
    - 7 years



- Right to Dispute~ FIFITPA Additions
  - **Olf CRA DENIES inaccuracy MUST:** 
    - Give basis;
    - Send copy of file, including which creditors were contacts;
    - Give evidence that info is accurate
  - Olf CRA ADMITS inaccuracy MUST:

Contact creditors/requestors from the last six months

- Right to Dispute cont...
  - **OPrivate Cause of Action**
  - Department of Consumer Affairs to Enforce
    - Complaints
      - 1-800-922-1594
      - www.scconsumer.gov "Complaint Services"
    - Pattern or Practice



UP NEXT: Social Security Numbers

#### Social Security Numbers Section 37-2-180/ 30-2-310



- Among other prohibitions, a public body or a business may not:
  - Make available to the public a person's social security number or six or more digits of the number;
  - Intentionally print or imbed a person's social security number or six or more digits of the number on a card required for access to a product or service;
  - Require a person to transmit a social security number or six or more digits of the number over the internet UNLESS there is a (1) secure connection or (2) the number in encrypted.

#### Social Security Numbers cont...

- Require a person to use his/her social security number or six or more digits of the number to access the web unless a password is also required;
- Print a person's social security number or six or more digits of the number on materials mailed to that person UNLESS state or federal law requires it;
- May not collect a person's social security number or six or more digits of the number UNLESS the body is (1) authorized by law or (2) the collection is imperative to the body performing its duties and responsibilities;

#### Social Security Numbers cont...

 When collecting a person's social security number or six or more digits of the number, must separate the number from the rest of the record, or as otherwise appropriate, so the number can be easily redacted pursuant to a FOIA request;

 At a person's request, must give a statement of purpose for collecting the person's social security number or six or more digits of the number and how it will be used.

#### Social Security Numbers cont...

#### • Exceptions:

- OSS # is included in an application. (Still cannot be on a postcard or visible on or thru an envelope.)
- Opening of an account or payment for a product or service authorized by the consumer.
- Person providing the SS# to a governmental authority.

**UP NEXT: Records Disposal** 

#### Records Disposal

- Definitions~ Effective 12-31-2008
  - OPersonal Identifying Information (PII)
    - Consumer's 1st name or 1st initial
    - + last name
    - +unencrypted or unredacted:
      - Social security #, or
      - Driver's License #, or
      - Financial account #, credit card, debit card + security code, or

Mu Mus

 Other #s or information to get access to financial accounts

### Records Disposal cont...

- Definitions cont...
  - Business
    - Person conducting business in this State

#### O Disposal

- discarding records that contain personal identifying information OR
- the sale, etc of anything containing

#### Records Disposal cont...

- Disposal of Records~
  - Hardware & Storage Media
    - B4 transfer or disposal must:
      - 1. Remove pers'l & confdt'l information
  - Record
    - If PII involved, B4 disposal:
      - 1. Shred, erase the PII to make unreadable or undecipherable

Can hire a 3<sup>rd</sup> party to dispose of records= ok if compliant

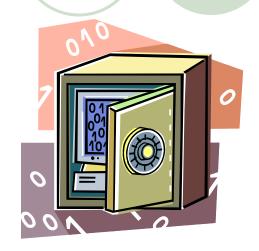
#### Records Disposal cont...

- Penalties
  - Civil Action
    - Department
    - Consumer
      - 3x actual damages/ limit \$1,000 + attorneys fees
      - Injunction
  - OAdministrative Action
    - Injunctions
    - Fines

**UP NEXT: Security Breaches** 

#### Security Breach~ Effective 7-1-2009

- Definitions~
  - Security Breach
    - Unauthorized access to AND
    - Acquisition of:
      - Records/ data containing PII
      - Illegal use has or is likely to occur



- Breach of the Security of the System
  - Unauthorized access to AND
  - Acquisition of:
    - Computerized data (where PII isn't encrypted, redacted, etc)
    - Illegal use has or is likely to occur

#### Applies to:

Persons conducting business in this State

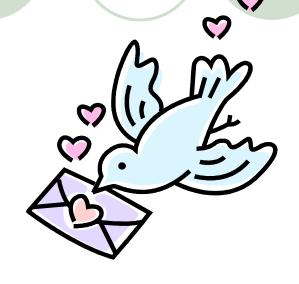
#### Notification~Section 1-11-490

#### To Consumer When:

- Computerized or other data
- containing PII that was not encrypted or redacted
- Was, or is reasonably believed, to have been acquired by an unauthorized person
- When illegal use of the PII occurred, is likely to occur or material risk to person



- Notification cont...~
  - OMust be Made:
    - Without delay
    - BY:
      - Written notice
      - Electronic notice (if primary method)
      - Telephone notice;
      - Substitute Notice: \$250k or 500,000 persons
        - E-mail notice;
        - Webpage notice;
        - Notify statewide media



#### **Sample Security Breach Notification Letter**

Date

Organization's Name and Address
Affected Person's Name and Address

#### **Dear (Person's Name):**

I am writing to inform you that our organization experienced (or discovered) a security breach on or about (date of breach or when breach was discovered). Unfortunately this has resulted in unauthorized access to your personal identifying information, specifically your (identify information that was or is reasonably believed to have been acquired).

(Organization Name) is taking this matter very seriously and has (describe steps taken to prevent further harm or access to the person's personal identifying information and indicate whether or not law enforcement and/or the Department of Consumer Affairs was notified of the breach). If you have any questions about this notice, please contact (name of contact person) at (contact's telephone number). You may also contact the South Carolina Department of Consumer Affairs at 1-800-922-1594 for information on steps you can take to defend yourself against identity theft.

#### Sincerely,

- Notification cont...~
  - To the Department When:
    - > 1,000 persons affect @ 1 time
    - Must also notify national consumer reporting agencies
  - Notice Must Include:
    - Timing,
    - Distribution, and
    - Content of Notice

#### **Mail To:**

**Legal Division** 

RE: Security Breach Notification

South Carolina Department of Consumer Affairs

P.O. Box 5757

Columbia, SC 29250



- Penalties:
  - OPrivate Cause of Action
    - Damages,
    - Injunction, and
    - Attorney's fees
  - Administrative Fines
    - Willful violation
    - Up to \$1,000 per affected person



#### Other Protections

- Unlawful to "dumpster dive"
  - Misdeameanor
  - Felony (intentional)



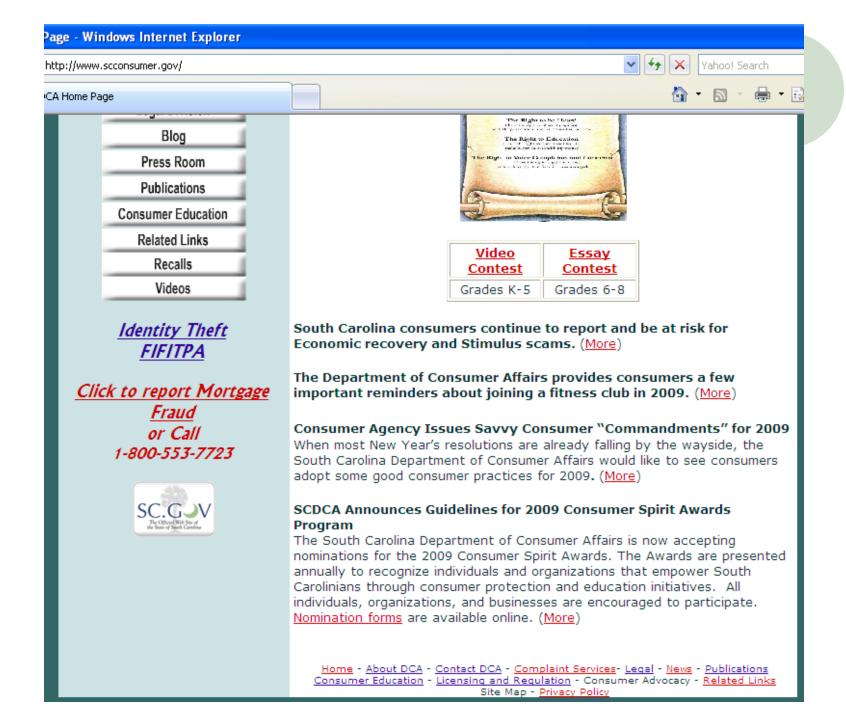
- Creates crime of "Financial identity fraud"
  - Felony (intentional)
- Credit Card Receipts
  - OMirrors Federal Law
    - Business may only print 5 or less digits of a credit/debit card # on consumer's receipts
      - (doesn't apply to handheld/imprinting)

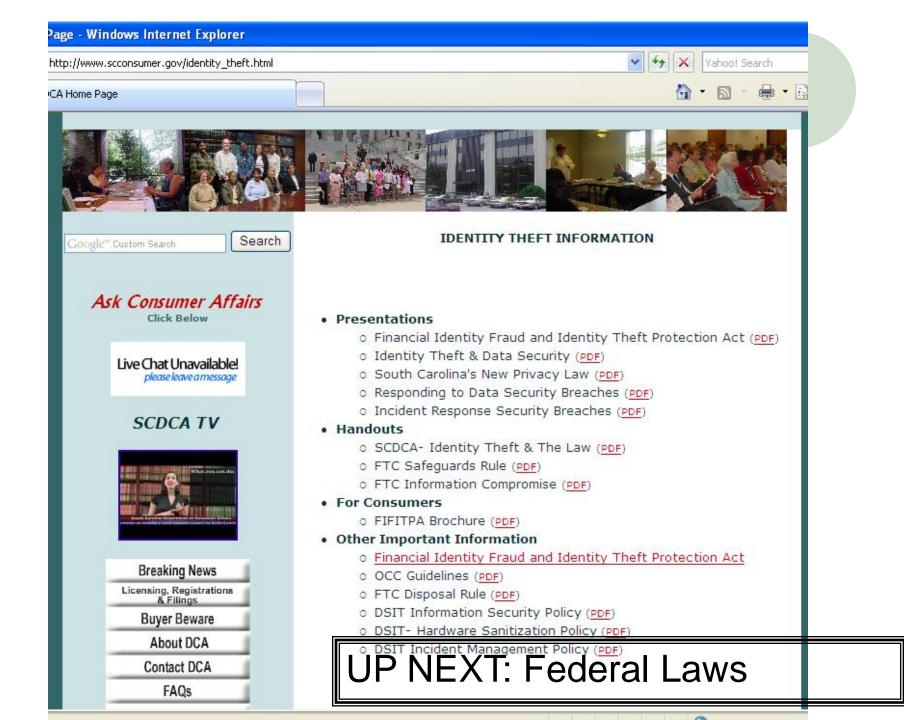
#### Other Protections cont...



#### Credit Cards

- O Businesses that mail offers to receive a seller or lender credit card must *verify a change of address* if the application returned states an address that is substantially different from the address on the offer.
- A seller/ lender credit card issuer is prohibited from mailing out additional credit cards to a new address if the card is requested within 30 days of the address change, unless the change of address is verified by the issuer.





#### Federal Requirements

- Fair Credit Reporting Act ("FCRA")
- Disposal Rule (FCRA)
- Financial Privacy Rule (Gramm-Leach-Bliley Act ("GLB"))
- Safeguards Rule (GLB)
- Red Flags Rule (FCRA FACTA)

- History
  - Original Eff. Date= 1971
    - Amended at least 6 times since
  - O Most recent major~
    - Fair and Accurate Credit Transactions Act of 2003 (FACTA)
- Purpose
  - Promote accuracy & fairness in credit reporting arena
    - Places requirements on:
      - credit reporting agencies
      - Furnishers of information
    - Provides consumer protections

- FCRA What is it?
  - Accuracy and fairness in credit reporting (more later)
  - Free annual credit reports
  - Identity Theft Protections
    - Fraud Alerts
    - Blocking of Information
    - Disposal Rule
    - Red Flags Rule



- Definitions: 15 U.S.C. 1681a
  - Consumer report:
    - Any communication of information by a credit reporting agency
    - Contains info on a consumer's
      - Credit worthiness
      - Credit standing
      - Character
      - General reputation
      - etc
    - Info is used or collected as a factor in deciding if a consumer is eligible for:
      - Credit, insurance, employment, etc

- Definitions cont...: 15 U.S.C. 1681a
  - Consumer reporting agency:
    - Person
    - Regularly engages in:
      - assembling or evaluating consumer information, including credit information
    - For purpose of distributing consumer reports to 3<sup>rd</sup> parties
    - Uses interstate commerce in preparation or distribution

- ID Theft Protections:
  - ○*Alerts~ 15 U.S.C. 1681c-1*



- Fraud Alert
  - Notice that = victim of ID Theft
  - Once call, that's all
  - Types
    - Initial ~
      - -90 days/ 1 free credit report from each
      - No proof necessary
    - Extended ~
      - -7 years/ 2 free credit reports from each w/in12 mths of placement
      - File ID Theft Report/Affidavit



- Fraud Alert cont...
  - Effects
    - Business= Extra Steps
    - 5 year removal from pre-screened offers

- Active Duty Alert
  - Active military consumer
  - 1 year- can renew
  - Effects
    - Business= Extra Steps
    - 2 year removal from pre-screened offers Removal from pre-screened offers



- ID Theft Protections cont...:
  - OBlock ID Theft Info- 15 U.S.C. 1681c-2
    - Result of ID Theft
    - Consumer provides:
      - Proof of id
      - Copy of id theft report
      - Id information
      - Statement that consumer didn't enter into the transaction reported
    - CRA to notify furnisher of block



- ID Theft Protections cont...:
  - Creditor Responsibilities- 15 U.S.C.§ 1681g
    - Creditor must provide information regarding transactions victim of ID theft claims are related to ID Theft w/in 30 days of consumer request (FREE OF CHARGE)
    - Consumer request=:
      - In writing;
      - Send proof of id;
      - Proof of id theft;
      - Date of transaction, if known;
      - Account number;



- ID Theft Protections cont...:
  - **OProactive Measures** 
    - Free Annual Credit Report~ 15 U.S.C.§ 1681g(a)
      - 1 from each of CRAs every 12 mths
      - www.annualcreditreport.com
      - 877-322-8228
    - Also get free report if:
      - Denied Employment
      - Denied Credit
      - Unemployed, about to look for job



- OProactive Measures cont...
  - Credit Card Truncation~ 15 U.S.C.§ 1681c
    - Shall not print:
      - >5 numbers of the card OR
      - Expiration date on any receipt

\*\*Doesn't apply to handwritten or imprint/ card copy receipts

#### Rules

- Disposal Rule
- Red Flags Rule

#### Disposal Rule

 Requires proper disposal of sensitive information derived from consumer reports.

#### Who?

 Any person who uses a consumer report for business purposes, ie: lenders, insurers, employers, landlords, mortgage brokers and debt collectors.

#### How?

- Burn, pulverize, shred
- Destroy or erase electronic data
- Due diligence in selecting and monitoring contractors.



- Red Flag Rule (FACTA)
  - Requires financial institutions and creditors\* to develop a <u>written program</u> that identifies and detects relevant warning signs ("Red Flags") of Identity Theft.
  - Program must include policies and procedures that enable a financial institution or creditor to:
    - Identify relevant patterns, practices, and specific forms of activity that are "red flags" signaling possible id theft;
    - Detect red flags that have been incorporated into the Program;
    - Respond appropriately to any red flags; and
    - Ensure the Program is updated periodically to reflect changes in risks from id theft.

#### • Red Flag Rule (FACTA)

#### Who?

- state or national bank, S & L, Credit Union that holds a deposit account or an account where the consumer makes transfers,
- entity that regularly extends, renews, or continues credit.
   Includes finance companies, auto dealers, mortgage brokers, utility companies, and telecommunication companies.

#### How?

 FTC, Banking Agencies, and NCUA have published Guidelines suggesting 26 possible red flags.

#### Examples

- Alerts or warnings from a consumer reporting agency.
- Suspicious documents.
- Suspicious personal identifying information.
- Unusual use of or activity in a covered account.
- Notices from customers, IDT victims, law enforcement or other businesses.

# FCRA Cont...

- Penalties: 15 U.S.C 1681n&o
  - Civil Liability
    - •Willful,
    - Knowing or
    - Negligent noncompliance
  - OAdministrative Enforcement: 15 U.S.C 1681s
    - Federal Trade Commission
      - Primary enforcer
    - State Action
      - FTC 1<sup>st</sup> right to refuse



- Gramm-Leach-Bliley Act
  - OWhat is it?
    - opening up competition among <u>banks</u>, <u>securities</u> companies and <u>insurance companies</u>
    - Privacy Protections
  - Financial Privacy Rule (Gramm-Leach-Bliley Act)
  - Safeguards Rule (Gramm-Leach-Bliley Act)
    - Apply to financial institutions\*

- Financial Institutions: all businesses, <u>regardless of size</u>, that are "significantly engaged" in providing financial products or services.
- Examples include:
  - auto dealers,
  - mortgage brokers,
  - credit counselors,
  - realtors,
  - tax preparers, &
  - courier services.

- Financial Privacy Rule (Gramm-Leach-Bliley Act)
  - Oprotects a consumer's "nonpublic personal information" (NPI)
    - NPI Is:
      - any "personally identifiable financial information" that a financial institution collects about an individual in connection with providing a financial product or service, unless that information is otherwise "publicly available."

- Financial Privacy Rule (Gramm-Leach-Bliley Act) cont...
  - OAll customers must be given a <u>privacy notice</u>. You must provide an "initial notice" by the time the customer relationship is established.
    - Notice Must Include description of:
      - how you collect, disclose, and protect NPI about consumers and customers, including former customers.
  - If you share NPI with nonaffiliated third parties, you also must give your customers opportunity to opt-out (exemption do apply)

- Safeguards Rule (Gramm-Leach-Bliley Act)
- Requires financial institutions\* to develop and implement safeguards to protect customer information.
- OCompanies must:
  - Develop a written information security plan
  - Designate employee(s) to coordinate safeguards
  - Identify and assess risks to customer information
  - Design and implement a safeguards program (regularly monitor, test, and update it)
  - Oversee service providers

- Safeguards Rule (Gramm-Leach-Bliley Act) cont...
  - Financial Institutions: all businesses, regardless of size, that are "significantly engaged" in providing financial products or services.

**Examples include** auto dealers, mortgage brokers, realtors, tax preparers, & courier services.

**UP NEXT: ID Theft Tips** 

#### What Should You Do If You're A Victim?

- Immediate Action
- Step One:
  - Fraud Alert (different from security freeze)
    - Contact 1- they call the others
    - 90 days- can extend to 7 years if victim & fill out ID Theft Report
    - Free reports (1 from each/ 2 from each)
- Creditors must contact you b4 issuing credit

# What Should You Do If You're A Victim? Cont..

#### Step Two:

- Affected Accounts
  - Close
    - Via Phone, then mail, certified, return receipt
  - Obtain PINs
    - New accounts- use new PINS and passwords
  - Dispute Fraudulent Charges/ Accounts
    - Ask for fraud dispute form from creditor
    - If new account opened in your name, ask if accept fraud affidavit
    - GET A LETTER THAT DISPUTE HAS BEEN CLEARED UP FROM CREDITOR!!!
  - Special Circumstances for Checks
    - Notify bank of forgery
    - Ask bank to notify check verification service



# What Should You Do If You're A Victim? Cont..

#### Step Three:

- Report to the Police
  - File Police Report & get copy

#### Step Four:

- OFile a Complaint with the Federal Trade Commission
  - Information sharing to track thieves
  - www.ftc.gov
  - <u>www.ftc.gov/idtheft</u> 1-877-IDTHEFT





# Wrap Up



- Olf you believe you are a victim of ID Theft:
  - Can place a FREEZE (State Law) on your report
  - Can also place FRAUD ALERT (Federal Law) on your report
    - Contact 1- they call the others
    - 90 days- can extend to 7 years if victim & fill out ID Theft Report
    - Free reports (1 from each/ 2 from each)
    - Creditors must contact you b4 issuing credit

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